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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/373,723	08/13/1999	MASARU IZAWA	NIP-154	2891

24956 7590 04/04/2003

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EXAMINER

ALEJANDRO MULERO, LUZ L

ART UNIT PAPER NUMBER

1763

DATE MAILED: 04/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/373,723

Applicant(s)

IZAWA ET AL.

Examiner

Luz L. Alejandro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,8-13 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) 19,20 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-4, 8-13, 17-18, and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3-4, 8-13, 17-18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izawa et al., JP 11-102894A (machine translation) in view of Wolf et al., "Silicon Processing for the VLSI Era Volume 1: Process Technology".

Izawa et al. shows the invention substantially as claimed including etching a contact hole of a transistor containing both nitride and oxide films comprising etching the wafer using electron cyclotron resonance (ECR) and a CF group gas and an Ar gas and controlling the generation ratio of F/CF₂ independently from the generation of ions,

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whereby the frequency during etching is 300 MHZ (see page 2, paragraph 12), the pressure is 4Pa (see paragraph 13), and the distance between the wafer and an antenna is 100 mm (see paragraph 17 and see entire machine translation for a description of the process).

Izawa et al. does not expressly disclose introducing a gas selected from O₂, SF₆, CF₄ and SiF₄ into the etching treatment chamber in addition to the Ar and CF group gas. Wolf et al. discloses (see page 551, Figure 10) that the addition of O₂ to a fluorocarbon based etchant will reduce the amount of polymerization during etching and increase the etch rate (see first full paragraph of page 549). In view of this disclosure, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process of Izawa et al. so as to add diatomic oxygen gas to the etchant compositions because this will increase the etch rate and reduce the amount of etchant by-products deposited on the workpiece.

Response to Arguments

Applicant's arguments filed 2/26/03 have been considered but are not deemed persuasive.

Applicant argues that the limitations added to independent claims 1 and 10, "generating F (fluorine radicals) and ions corresponding to CF₂ in said plasma, each amount of which is independent from each other, and performing said etching treatment", renders the claims allowable. However, note that in the abstract of Izawa et

al. it is clear that the fluorine radicals and ions corresponding to CF_2 in said plasma are also independent from each other.

Regarding applicant's argument that the teaching of Wolf et al. is different than the teaching of Izawa et al. and therefore not combinable, the examiner submits that the motivation to combine Wolf et al. with Izawa et al. needs to be found in Wolf et al. and not in Izawa et al.. The examiner respectfully contends that adding diatomic oxygen avoids polymerization and therefore contamination of the wafer, as clearly shown in fig. 10 on page 551 of Wolf et al., and therefore a prima facie case of obviousness exists.

Regarding applicant's contention that not all gases claimed in the instant invention are shown in Izawa et al., one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). When Izawa et al. is taken in combination with Wolf et al., all of the gases recited in the claims are shown in the references.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

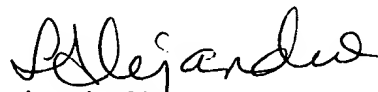
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luz L. Alejandro whose telephone number is 703-305-4545. The examiner can normally be reached on Monday to Thursday from 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Mills can be reached on 703-308-1633. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Luz L. Alejandro
Patent Examiner
Art Unit 1763

April 02, 2003